

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include changes to Figures 2, 5, and 6. These sheets, which include Figures 2, 5, and 6, replace the original sheets including Figures 2, 5, and 6, respectively. In Figure 2, a previously omitted continuity link between rectangles 202 and 204 has been added. In Figure 5, the unlabeled boxes 510 and 526 have been provided with descriptive test labels. In Figure 6, the typos in rectangle boxes 630 and 632 have been corrected from “sup-request” and “sup-responses” to “sub-request” and “sub-responses.”

Attachment: Replacement Sheets
 Annotated Sheets with Changes

REMARKS

The Office Action mailed May 28, 2008 has been received and carefully noted. Claims 1-28 are currently pending in the subject application and are presently under consideration.

Claims 1, 9, 14, and 19 have been amended herein. Support for the amendments can be found on at least page 2 of the Specification. Therefore, no new matter has been introduced in the amendments and entry thereof is respectfully requested. A listing of claims can be found on pages 2-9 of this Reply.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and the following comments.

I. Rejection of Claims 1-4, 7-10, 13-19 Under 35 U.S.C. § 102(e)

Claims 1-4, 7-10, 13-19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sudama *et al.* (U.S. 5,555,375). It is respectfully requested that these rejections be withdrawn for at least the following reason. Sudama *et al.* does not describe each and every element of the claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). In particular, independent claims 1, 14, and 19 recite: "receiving a request for at least one item from a customer data processing system at a central data processing system," Sudama *et al.* fails to describe these aspects.

The Examiner states that Sudama *et al.* in column 6, lines 66-67 and column 7, lines 1-3 discloses "receiving a request for at least one item at a central data processing system" (*See* Office Action mailed May 28, 2008, page 3). However, Sudama *et al.* does not describe the amended aspects of these claims. Specifically, Sudama *et al.* does not disclose receiving a request for at least one item *from a customer data processing system* at a central data processing system (emphasis added).

Sudama *et al.* discloses a system where a user submits a request through a user interface that is coupled to a management server (See Sudama *et al.*, column 6, lines 66-67 and column 7, lines 1-3). Sudama *et al.*'s system does not specify that the request is received from a customer data processing system. Rather, the request is input by a user (See *Id.*). A user interface is not equivalent to a customer data processing system. Therefore, receiving a request through a user interface is not the same as receiving a request from a customer data processing system. Thus, the cited reference fails to describe "receiving a request for at least one item from a customer data processing system at a central data processing system." If the Examiner maintains these rejections, the Applicants respectfully request that the Examiner indicate which parts of the cited reference corresponds to receiving a request from a customer data processing system.

In addition, claim 9 recites: "the request for the at least one *item* has a structure of an order-like document that comprises: -a header section; -at least one item; -at least one schedule line per item comprising information requested by the customer including a delivery date and a quantity" (emphasis added) or analogous aspects. Sudama *et al.* does not describe each and every element of the claims.

In Sudama *et al.*, the user submits a network command, which is a group of operations or a single operation, to the user interface and the network executes the group of operations or the operation (See Sudama *et al.*, column 5, lines 15-25). Sudama *et al.*'s system does not specify that a user's request is directed to an item. Rather, in Sudama *et al.*, the user's request consists of a network command that is transformed into network operations. A person of ordinary skill in the art reading the claim in light of the specification would understand that "an item" as recited in the claim is a product or a good, not a network command or operation. Therefore, receiving a request for a network command or operation is not the same as receiving a request for an item or good. Thus, the cited reference fails to describe "the request for the at least one *item* has a structure of an order-like document that comprises: -a header section; -at least one item; -at least one schedule line per item comprising information requested by the customer including a delivery date and a quantity" (emphasis added). If the Examiner maintains these rejections, the Applicants respectfully request that the Examiner indicate which parts of the cited reference corresponds to these elements of the claim.

Moreover, Sudama *et al.*'s system does not specify that "the request ... comprises ... at least one schedule line per item *comprising information requested by the customer*

including a delivery date and a quantity” (emphasis added) as recited in claim 9. Sudama *et al.* does not specify that the user’s request comprises information that includes a delivery date and a quantity. Rather, as stated above, the user’s request in Sudama *et al.* is a network command that is consisted of network operations. A person of ordinary skill in the art reading the claim in light of the specification would know that “a request ... including a delivery date and a quantity” as recited in the claim is referring to a request for a product or a good, not referring to a request for a network operation. Therefore, the cited reference again fails to satisfy the elements of this claim. If the Examiner maintains these rejections, the Applicants respectfully request that the Examiner indicate which parts of the cited reference corresponds to these elements of the claim.

Claims 2-4, 7-10 and 13 depend from independent claim 1, claims 15-18 depend from independent claim 14, thus incorporating the limitations thereof. For at least the aforementioned reasons regarding the independent claims, Sudama *et al.* does not describe each and every element of the dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

II. Rejection of Claims 5-6, 11-12, and 20-28 Under 35 U.S.C. § 103(a)

The Examiner contends that dependent claims 5-6 and dependent claims 11-12 are rejected under 35 U.S.C. 103(a) as being obvious over Sudama *et al.* in view of Tso *et al.* (U.S. 20020133381) and Lambert *et al.* (U.S. 7,350,212), respectively (See Office Action mailed May 28, 2008, pages 10 and 12, respectively). Claims 5-6 and 11-12 depend from claim 1, thus incorporating the limitations thereof. For the reasons mentioned above in regards to claim 1, Sudama *et al.* does not teach or suggest each of the elements of claims 5-6 and 11-12. The Examiner has not indicated and the Applicants have not discerned any part of Tso *et al.* and Lambert *et al.*, respectively, which cures these deficiencies of Sudama *et al.* Therefore, the Examiner has failed to establish that Sudama *et al.* in view of Tso *et al.* and Lambert *et al.*, respectively, teaches or suggests these elements of claims 5-6 and 11-12, respectively.

Claims 20-28 stand rejected under 35 U.S.C. § 103(a) as being obvious over Sudama *et al.* It is respectfully requested that these rejections be withdrawn for at least the following reason. Sudama *et al.* does not teach or suggest all the claim limitations expressly or impliedly and does not render them obvious.

To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP § 706.02(j). In particular, independent claim 20 recites: “**means for selecting an asynchronous or a synchronous communication mode** for communication with partner computer systems” (emphasis added). Independent claim 25 recites analogous aspects.

The Examiner concedes that *Sudama et al.* does not explicitly disclose this aspect but contends that adapting *Sudama et al.*’s system to include this aspect would be obvious (*See Office Action* mailed May 28, 2008, page 17). However, the Applicants respectfully disagree that such aspect would be obvious to one of ordinary skill in the art.

Adapting *Sudama et al.*’s system to include a means for selecting an asynchronous or a synchronous communication mode is not obvious in view of *Sudama et al.* *Sudama et al.* discloses a system where the management servers decompose group objects and forward the resulting operations to their designated management servers, but *Sudama et al.* is not concerned with selecting between different communication modes or completing the task using different communication modes (*See Sudama et al.*, column 8, lines 1-9). *Sudama et al.* does not teach to select a communication mode before the request is processed, but goes ahead and processes the request using a set communication mode (*See Id.*). The passages noted by the Examiner at column 7, lines 63-67 and column 9, lines 37-50 fail to go into any detail regarding communication technology beyond noting that the management servers simply decompose group objects and forward the resulting operations to their designated management servers (*See Office Action* mailed May 28, 2008, page 15).

Moreover, *Sudama et al.* fails to teach an interrelationship between sending requests and receiving responses. The synchronous communication means illustrated in claim 20 discloses sending a sub-request to a partner system, waiting for the respective sub-response and then sending a second sub-request after receiving the first sub-response (*See independent claims 20 and 25*). The management servers in *Sudama et al.* forward sub-requests and process operations without waiting for sub-responses

(See Sudama *et al.*, column 8, lines 1-9). It would not make sense to adapt Sudama *et al.* to include a synchronous communication means and wait for a sub-response before sending another sub-request because in Sudama *et al.* the sub-request is not dependent on a sub-response in any manner. In Sudama *et al.*'s operation processing network environment, there are not situations where a different communication means would be necessary for accomplishing its goal in processing its network requests. Therefore, a person of ordinary skill in the art would not include an additional selection means between different modes and a means for synchronous communication because it would add elements to Sudama *et al.*'s invention that would be redundant and more expensive.

In addition, including an additional selection means for different modes and a means for synchronous communication would render Sudama *et al.*'s invention less efficient because Sudama *et al.* aims to execute multiple operations on multiple systems administered by multiple management servers simultaneously (See Sudama *et al.* column 3, lines 1-4). Sudama *et al.*'s management servers efficiently utilize the available resources for performing management operations by executing and forwarding operations in parallel (See Sudama *et al.* column 3, lines 11-13 and 19-21). Groups are nested in a hierarchical manner so management servers can decompose and execute operations in parallel (See Sudama *et al.* column 3, lines 13-19). This network structure of nesting groups within groups allows a large number of service requests to be executed in a "massively parallel manner" (See Sudama *et al.* column 3, lines 21-27). Therefore, including a synchronous mode of communication would change the principle of operation of Sudama *et al.* and render it less efficient. For all the foregoing reasons, including a selection means between different communication modes would not be obvious. Withdrawal of this rejection is respectfully requested.

Sudama *et al.* does not teach or suggest a means to select between the communication modes, but simply states how operations are forwarded from one management server to another and that the forwarding may proceed in "any other manner well known to those skilled in the art" (See Sudama *et al.*, column 10, lines 40-49), implying that the user's request would be processed under one set means. This manner of operation is in direct contrast to having a "***means for selecting an asynchronous or a synchronous communication mode*** for communication with partner computer systems" (emphasis added) (See independent claims 20 and 25). Thus,

Sudama *et al.*'s manner of operation and its suggestion that forwarding from one management server to another may proceed in "any other manner well known to those skilled in the art" does not provide the requisite support to make obvious the above aspects of independent claims 20 and 25.

In addition, the Examiner takes Official Notice that "synchronous and asynchronous communications are two means/modes of network communications that are both well-known to those of ordinary skill in the art" and therefore it would have been obvious to have adapted Sudama *et al.* to include these limitations (*See* Office Action mailed May 28, 2008, page 17)." The Applicants traverse this taking of Official Notice.

To properly establish a *prima facie* case of obviousness based on facts asserted as common knowledge or by Official Notice, the Examiner must first establish that the facts that the Examiner intends to assert as common knowledge or take Official Notice of are suitable for such assertion. MPEP §2144.03 clearly sets forth that such facts must be "capable of instant and unquestionable demonstration as being well-known," as established by *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). The Applicants note that the Examiner takes the limitations of the relevant claims out of context when taking Official Notice. The claims do not merely recite that a communication mode can be synchronous or asynchronous. Rather, the synchronous and asynchronous communication modes are recited as adjustable parameters in a data processing system for processing a request where the communication mode may be selected (*See* independent claims 20 and 25).

In addition, the Examiner has failed to establish these allegedly well known facts as part of the record as required by MPEP §2144.03 and *In re Zurko*, 59 USPQ2d 1693 (Fed. Cir. 2001). MPEP §2144.03 clearly sets forth that "[i]f such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge (*See Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241). Further, as clarified in *In re Zurko*, "[w]ith respect to core factual findings in a determination of patentability, however, the Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings" (*See In*

re Zurko at 1697). Thus, the assertion of Official Notice has not been properly established by the Examiner and cannot be relied upon as a basis for a *prima facie* case of obviousness.

Accordingly, claims 20 and 25 are not obvious over Sudama *et al.* and the Examiner's Official Notice. Reconsideration and reversal of these rejections are respectfully requested.

Dependent claims 21-24 and dependent claims 26-28 depend from independent claims 20 and 25, respectively, thus incorporating the limitations thereof. For at least the above reasons relating to the independent claims, Sudama *et al.* does not teach or suggest all the claim limitations of the dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date: 8/28

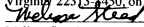


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Melissa Stead 8-28, 2008

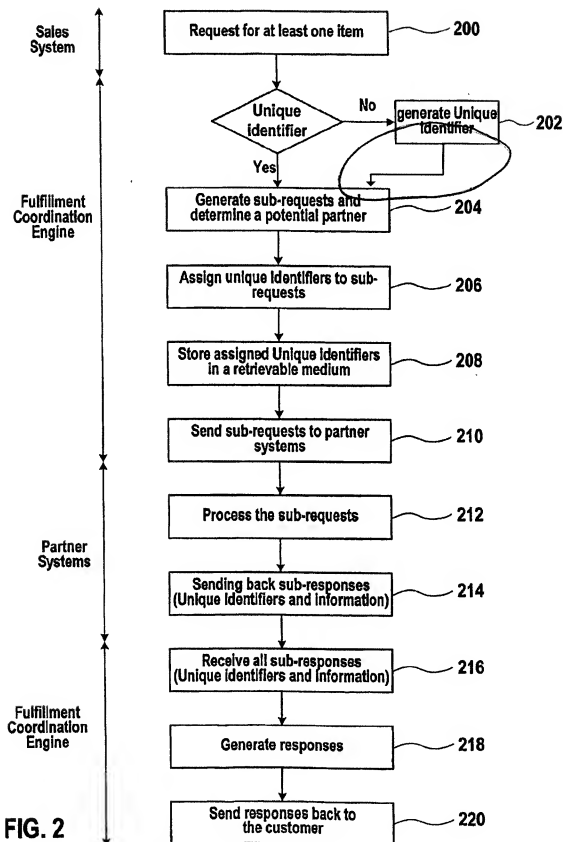


FIG. 2

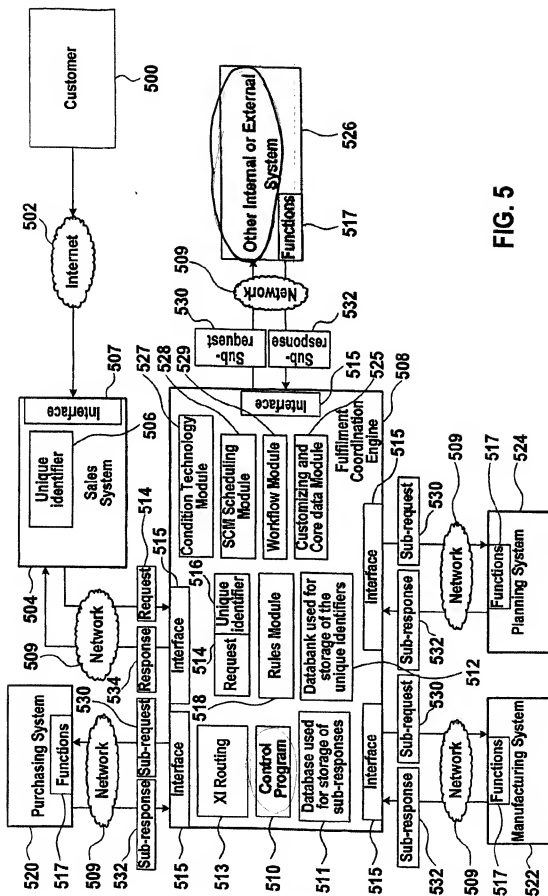


FIG. 5

Annotated Sheet w/ changes

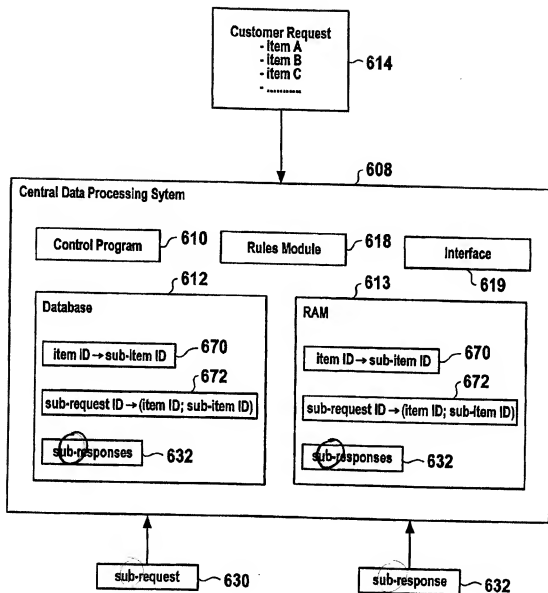


FIG. 6